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The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Challenging unlawful Israeli policies in the General Debate of Agenda Item 7 of the Human Rights Council: Acting to end systematic and gross violations of international law

Standing Agenda Item 7 of the Human Rights Council (HRC) provides a vital platform for addressing the proliferation of international law violations committed in the occupied Palestinian and Syrian territories. The Agenda Item also provides an important precedent of how the HRC could operationalise its mandate in other situations where prolonged, gross and systematic violations of human rights are not being addressed adequately. At a time when Israel, the Occupying Power, is adopting policies that result *inter alia* in collective punishment and wilful killing, it is imperative that States call for concrete measures through conducive and full participation under Item 7. The EU indirectly acknowledged in a 2014 confidential non-paper that a change in its own strategy of non-participation under Item 7 could bring Israel in line with its obligations under international law.[1]

Of particular concern in the last few months are Israel's "shoot-to-kill" policy and their policy of collective punishment. Discussed in more depth below, these acts must be addressed in the General Debate of Agenda Item 7 of the upcoming HRC session and with them a need for accountability for Israeli officials responsible for ongoing systematic and grave violations in occupied Palestine.

Collective punishment in Jerusalem, Qabatiya, and the Gaza Strip

Since Israel's illegal annexation of East Jerusalem following its occupation in 1967, Israel has implemented a comprehensive policy to deepen its control over the city. As part of this policy, the Israeli Occupying Power has planned for and implemented practices towards the fragmentation of East Jerusalem, involving serious violations of Palestinian rights. Today, East Jerusalem is not only isolated from the rest of the West Bank, but Palestinian neighbourhoods therein are cut off from each other by checkpoints, the Annexation Wall, settlements and other barriers. Further, Israel regularly seals off these areas as a form of collective punishment. Limitations on movement and access extend to arbitrary restrictions on Palestinian access to Muslim and Christian holy sites. While recent attacks on Al-Aqsa Mosque Compound are considered as a spark for the current unrest, they are a routine part of Israeli occupation.

Other Israeli practices in the city include removing the Palestinian population from East Jerusalem, either through actively revoking residency and property rights, or by creating conditions that force Palestinians to leave East Jerusalem, including through the suppression of Palestinian political, economic, social, and cultural life. At the same time, Israel endeavours to increase and fortify Jewish presence in East Jerusalem through the expansion of illegal settlements. As violence intensified over the past few months, Israel took escalated actions that are symptomatic of its historic policy towards East Jerusalem and its Palestinian residents. Such a policy impacts the Palestinian community as a whole in East Jerusalem, including the obstruction of movement in and access to Palestinian neighbourhoods, punitive home demolitions, the revocation of residency, and economic measures.[2]

In other parts of the West Bank, Israel regularly enacts similar unlawful policies. For example, on 4 February 2016, Israeli forces sealed off the city of Qabatiya, south Jenin, for three days after three young men, all from Qabatiya, carried out an attack against Israeli forces near Damascus Gate in Jerusalem a day earlier. The Palestinian men, Ahmad Zakarneh, 20, Muhammad Kamil, 21, and Ahmad Abu Al-Rub, 20, were immediately shot and killed. For three days following the attack, 30,500 Palestinian residents of Qabatiya were cut off from the rest of the OPT.

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[1] See: Al-Haq, *Strengthening the European Union's involvement at the United Nations Human Rights Council: Standing Agenda Item 7*, available at: http://www.alhaq.org/publications/Strengthening.the.EU.Involvement.pdf (2 February 2016); see also Ravid, *EU Seeks Talks with Israel over Red Lines*, Haaretz, available at: http://www.haaretz.com/israel-news/1.622099 (22 October 2014)

[2] See Al-Haq, *East Jerusalem: Exploiting Instability to Deepen the Occupation*, available at: http://www.alhaq.org/publications/Special.Focus.on.jerusalem.pdf (3 December 2015).

In the Gaza Strip, Israel has imposed an eight-year-long closure on the Gaza Strip, which includes severe restrictions on the freedom of movement of Palestinians and the free flow of goods. In general, the closure has had all-encompassing effects on Palestinians' access to employment, livelihood, education and health in the Gaza Strip.[3] According to the International Committee of the Red Cross (ICRC), the closure imposed on the Gaza Strop is "choking off any real possibility of economic development".[4] Moreover, because the "whole of Gaza's civilian population is being punished for acts for which they bear no responsibility", the ICRC considers that the closure amounts to collective punishment.[5] In past Israeli offensives on the Gaza Strip, targeting of civilian infrastructure to inflict hardship on the civilian population, an act amounting to collective penalty and also amounts to a war crime,[6] was also prevalent.[7]

Collective punishments violate both international humanitarian law and human rights law, as both emphasize the individual nature of punishment. Article 33(1) of the Fourth Geneva Convention affirms, "No protected person may be punished for an offense he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited." Article 75(2)(d) of the First Additional Protocol to the Geneva Conventions, reflective of customary law, confirms that collective punishments are prohibited at any time.[8] Under international human rights law, collective punishment contradicts principles of due process guarantees and rights to fair trial. The Human Rights Committee has affirmed that even in states of emergency, States parties may not act "in violation of humanitarian law or peremptory norms of international law, for instance [...] by imposing collective punishments [...]."[9]

Shoot-to-kill policy: Excessive use of force and extrajudicial executions

From 1 October 2015, Israeli police, military personnel, security guards and armed settlers have killed more than 154 Palestinians. These killings took place in the context of demonstrations, alleged attacks and other circumstances following altered Israeli policies to facilitate and encourage extrajudicial, summary and arbitrary killings. In September 2015, the Israeli Cabinet unanimously approved Prime Minister Benjamin Netanyahu's proposal to lower the threshold for use of live ammunition, to a standard that violates international law. This was a part of the Prime Minister's "war against stone-throwing in Jerusalem."[10] Previously, Israeli police were allowed to use live ammunition only when facing a life-threatening situation. Now, Israeli police have permission to fire on individuals whenever there is an "immediate and concrete danger to police or civilians."[11] The Cabinet also approved the use of "ruger sniper rifles," which can cause serious bodily harm and death - these rifles were used by *untrained* snipers against Palestinians protesting in East Jerusalem.[12] Only after their use did the police decide to employ a training programme for use of these rifles by snipers, a clear indication that the police intend to continue to use these rifles against protesters in the future.[13]

Another concerning trend, which may also be attributed to the change in open-fire regulation, is Israeli forces' killing Palestinians in the context of alleged attacks, when the suspect could have been controlled without resorting to the use

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[3] See OCHA oPT, 'Gaza Initial Rapid Assessment' (27 August 2014), page 6, available at: http://www.ochaopt.org/documents/gaza_mira_report_9september.pdf (last accessed 12 February 2016)

[4] See ICRC, 'Gaza Closure: Not Another Year!' (14 June 2010), available at: https://www.icrc.org/eng/resources/documents/update/palestine-update-140610.htm (last accessed 12 February 2016); ICRC, 'Practice relating to Rule 103, Collective Punishments', available at: https://www.icrc.org/customary-ihl/eng/docs/v2_rul_rule103 (last accessed 13 February)

[5] *Ibid.*

[6] ICRC Customary IHL, rule 103.

[7] See: Al-Haq, *Divide and Conquer: A Legal Analysis of Israel's 2014 offensive against the Gaza Strip*, available at: http://www.alhaq.org/advocacy/topics/gaza/898-divide-and-conquer (22 February 2015).

[8] 1977 PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949(PROTOCOL I), 1125 U.N.T.S. 3, *available at* https://www.icrc.org/ihl/WebART/470-750096.

[9] Human Rights Committee, *GC 29*, U.N. Doc CCPR/C/21/Rev.1/Add.11, para. 11 (2001).

[10] Israeli Ministry of Foreign Affairs, available at: *http://mfa.gov.il/MFA/PressRoom/2015/Pages/Security-Cabinet-statement-24-Sep-2015.aspx*

[11] *Ibid.*

[12] *See*, J Khoury, *Israel Police Suspend Sniper Use After East Jerusalem Riots*, Haaretz (22 September 2015), available at:http://www.haaretz.com/israel-news/.premium-1.677095.

[13] *Ibid.*

of live fire. Since the beginning of October, over 76 Palestinians were shot by force of the Israeli Occupying Power during or after alleged attacks.[14] In many of these killings, ample video footage and imagery has emerged casting doubt upon whether Palestinians killed had attempted to commit attacks, and calls into question the actions of the Israeli forces. In fact, footage as well as eyewitness accounts in several cases confirmed that Israeli forces used lethal force against Palestinians who did not pose a threat or no longer posed a threat. In some cases, eyewitnesses confirmed that Israeli forces used lethal force against unarmed Palestinians upon suspicion without them posing any form of direct threat or harm.

The recurrence of these incidents suggests an unofficial shoot-to-kill policy whereby Israeli forces are resorting to excessive and lethal force in an unlawful manner. Lethal force is being used against Palestinians allegedly involved in attacks as the first, and only, course of action and not as a last resort. International law, as well as Israeli law, permits using lethal force after all measures have been exhausted and where a suspect poses immediate and serious danger. In many of the cases since October 2015, Israeli forces appear to have resorted to using lethal force as an alternative to attempting to apprehend suspects and even without issuing warnings. Even in cases where suspects were holding a knife or attempting a stabbing attack, international law allows for the use of force to wound following warnings so as to apprehend the suspect and not use lethal force to kill.[15]

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[14] According to Al-Haq statistics: http://www.alhaq.org/documentation/field-updates-2015/971-palestinians-killed-in-the-opt-since-1-october-2015

[15] For more on Israel's extrajudicial executions, please feel free to contact *mona@alhaq.org*